

Earlier we had reported on the passage of Public Law 94-397, passed by Congress on 3 September 1976 and effective 1 October 1976, which would require agencies to reimburse the Treasury the amount of annuity for reemployed annuitants.

Based on our reading of the law, it was clear that the reimbursement applied only to annuitants used in an employee capacity and not to independent contractors. To be absolutely certain, DD/Pers called the Director, Bureau of Retirement and Insurance, to confirm our understanding as well as to find out when implementing regulations would be issued.

The Director, BRI reported that regulations had been prepared based on the interpretation as we had it, i.e., annuitants hired in an employee relationship. He added, however, that he has had a series of meetings with staff members of the Congress who disagreed with this interpretation and who have taken the position that it was the intent of Congress to apply the reimbursement feature of the law more broadly than just to those hired in an employee relationship. Specifically, it was the Director's impression that Congressional staff members want the regulations to cover all annuitants hired on a personal services contract and perhaps to exclude only those independent contractors who are hired to produce a product. The Director reported that growing pressure was put on him to incorporate this concept in his regulations and he was informed that, unless he did, action would be taken early in the new Congress to effect a statute taking the broader position. The Director reported also that he hopes to have this issue resolved by the first of the year.

The intent of the Congress as reported by staff members that independent contractors, except those working to produce a product, were within the scope of the law apparently came as a complete surprise and this has caused the delay in issuing implementing instructions.

Needless to say, this position has come as a shock to us and will have a larger budgetary impact on the Agency than was previously contemplated if it turns out the way the Congressional staff wants it to. [redacted] O/Comptroller, and [redacted] DDO/[redacted] have been informed. We will also pass this on to other Directorate representatives.

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